



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 2021-27773; RTID 0648-XC417]

Fisheries of the Northeastern United States; Scup Fishery; Adjustment to the 2022 Winter II Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2022 Winter II commercial scup quota and per-trip Federal landing limit. This action is necessary to comply with regulations implementing Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan that established the rollover of unused commercial scup quota from the Winter I to Winter II period. This notification is intended to inform the public of this quota and trip limit change.

DATES: Effective October 1, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281-9184; or Laura.Deighan@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published a final rule for Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan in the **Federal Register** on November 3, 2003 (68 FR 62250), implementing a process to roll over unused Winter I commercial scup quota (January 1 through April 30) to be added to the Winter II period quota (October 1 through December 31) (50 CFR 648.122(d)). The framework also allows adjustment of the commercial possession limit

for the Winter II period dependent on the amount of quota rolled over from the Winter I period.

For 2022, the initial Winter II quota is 3,248,849 lb (1,473,653 kg). The best available landings information through September 8, 2022, indicates that 4,219,494 lb (1,913,930 kg) remain of the 9,194,201 lb (4,170,419 kg) Winter I quota. Consistent with Framework 3, the full amount of unused 2022 Winter I quota is being transferred to Winter II, resulting in a revised 2022 Winter II quota of 7,468,343 lb (3,387,583 kg). Because the amount transferred is between 4.0 and 4.5 million lb (1,814,369 and 2,041,165 kg), the Federal per trip possession limit will increase from 12,000 lb (5,443 kg) to 24,000 lb (10,886 kg), as outlined in the final rule that established the possession limit and quota rollover procedures for this year, published on December 23, 2021 (86 FR 72859). The new possession limit would be effective October 1 through December 31, 2022. The possession limit will revert back to 12,000 lb (5,443 kg) at the start of the next fishing year that begins January 1, 2023.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.122(d), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be contrary to the public interest. This action transfers unused quota from the Winter I Period to the Winter II Period to make it accessible to the commercial scup fishery and increase fishing opportunities. If implementation of this inseason action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent the annual

quota from being fully harvested. If this action is delayed, it would reduce the amount of time vessels have to realize the benefits of this quota increase, which would result in negative economic impacts on vessels permitted to fish in this fishery. Moreover, the rollover process being applied here is routine and formulaic and was the subject of notice and comment rulemaking, and the range of potential trip limit changes were outlined in the final 2022 scup specifications that were published December 23, 2021, which were developed through public notice and comment. The benefit of soliciting additional public comment on this formulaic adjustment would not outweigh the benefits of making this additional quota available to the fishery as quickly as possible. Based on these considerations, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 27, 2022.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.